

On December 5, 2023, Plaintiffs filed a motion to conditionally certify this case as a collective action under 29 U.S.C. 216(b). Dkt. No. 36. Thereafter, on December 15, 2023, Defendant filed a motion to dismiss the third amended complaint in its entirety and to stay the time for Defendant to respond to the motion for conditional certification. Dkt. No. 46 at 2. On February 23, 2024, the Court issued an order noting the efficiency to the request that the Court decide the pending motion to dismiss prior to addressing the motion for conditional certification but directing the Defendant to inform the Court whether it would agree that the running of the statute of limitations was tolled for potential members of the FLSA collective from the time of the filing for the motion for conditional certification until the time such motion was decided. Dkt. No. 66. Defendant responded on February 27, 2024 that it did not object to the equitable tolling of the applicable statute of limitations period for members of the potential collective who had not yet filed an opt-in notice from the time that the motion was filed until the Court decided the motion. Dkt. No. 67. As a result, the time for Defendant to respond to the motion for conditional certification was adjourned sine die. Dkt. No. 68. To date, the Court has not set a

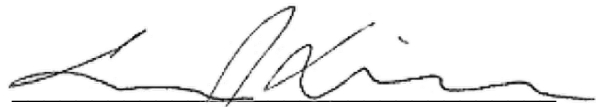
new date for response to the motion and no response has been filed.

On May 9, 2023, the Court issued an Opinion and Order dismissing the third amended complaint without prejudice. Dkt. No. 77. On June 5, 2024, Plaintiffs filed a fourth amended complaint, Dkt. No. 79, and Defendant filed a motion to dismiss the fourth amended complaint on July 12, 2024, Dkt. No. 84. An opposition has been filed to the motion to dismiss the fourth amended complaint, *see* Dkt. No. 89, but the motion is not yet fully submitted. The motion for conditional certification also remains sub judice. The same interests in judicial efficiency that caused the Court to grant a stay of a response to the motion for conditional certification with respect to the third amended complaint apply to the yet to be sustained fourth amended complaint.

Accordingly, IT IS HEREBY ORDERED that each party shall inform the Court by letter filed on ECF no later than August 22, 2024, why the Court should not deny the motion for conditional certification without prejudice to renewal by a new motion (which at the option of Plaintiffs may be supported by the same briefing) after a decision on the motion to dismiss the fourth amended complaint. The Defendant shall also state whether it objects to the equitable tolling of the applicable statute of limitations from the date of the original motion, December 5, 2023, to the date a decision is made either granting or denying a motion for conditional certification.

SO ORDERED.

Dated: August 15, 2024
New York, New York


LEWIS J. LIMAN
United States District Judge